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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,581	08/25/2000	Hugh H. Birch	2610	5783

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 11/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/648,581

Applicant(s)

BIRCH ET AL.

Examiner

Marissa Thein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

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DETAILED ACTION

Response to Amendment

Applicants' "Amendment A and Response" filed on August 29, 2003 has been considered with the following effect.

Applicants' response by virtue of amendment to claim 7 has overcome the Examiner's rejection of such claim under 35 U.S.C. § 112, second paragraph.

Applicants' response by virtue of amendment to claim 18 has overcome the Examiner's rejection of such claim under 35 U.S.C. § 112, second paragraph.

Claims 1, 6, 7, and 9 have been amended. Claims 1-29 remain pending.

Response to Arguments

Applicant's arguments filed August 29, 2003 have been fully considered but they are not persuasive.

Examiner's Note: Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

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Claim 1

Applicants remark in substance that "Walker fails to disclose the selecting a preferred provider from a group of preferred providers"

Examiner notes that Walker discloses, "the selecting of a preferred provider from a group of preferred providers". In col. 9, lines 5-16, Walker discloses the display of the Conditional Purchase Offer (CPO) globally in a manner such that it is available to be viewed by the interested potential sellers. The CPOs are listed by subject category to make it easier for the potential sellers to identify the relevant CPOs. The sellers chooses a particular subject category and have the ability to browse CPOs which correspond to the sellers' subject category. The seller may be required to provide qualifications in order to view the CPOs of a given subject category. Such sellers responding to the subject category which corresponds to the sellers subject category and furthermore providing qualification in order to view the CPOs of the given subject category are considered the selecting of a preferred provider from a group of preferred providers".

Applicants' remark in substance that "Walker fails to disclose a preferred provider group". Applicants' further remark in substance that the "preferred provider group are those that receive preferential treatment such as the exclusive, preferential opportunity to respond to a consumer's offer, as described in the present invention".

Examiner notes that Walker does disclose the preferred provider group. In col. 19, lines 29-33, Walker discloses the authentication of the sellers' identity which provides an indication of the sellers' ability to deliver the goods. In an example in col.

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19, lines 33-44, Walker discloses the central controller verifying that the seller is an airline and can provide the specific good requested. Furthermore, the central controller further verifies that it serves the city pairs requested by the buyer. Such verifying of a seller based on the ability to deliver and provide the specific goods are considered a preferred provider group. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the preferred provider group are those that receive preferential treatment such as the exclusive, preferential opportunity to respond to a consumer's offer) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicants' remark in substance that "Walker fails to disclose repeatedly selecting another preferred provider from the group of preferred providers, obtaining at least one quote for the product from the selected preferred provider, and evaluating the quote from the selected preferred provider to determine if the at least quote satisfies the offer, until the offer is satisfied or until the group of preferred providers is exhausted".

For the remarks pertaining to the group of preferred providers (potential sellers), Examiner draws Applicants' attention to the discussion above. Examiner notes that Walker does disclose "the repeatedly selecting another preferred provider from the group of preferred providers, obtaining at least one quote for the product from the selected preferred provider, and evaluating the quote from the selected preferred provider to determine if the at least quote satisfies the offer, until the offer is satisfied or

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until the group of preferred providers is exhausted". In col. 17, lines 49-62, Walker discloses a CPO (conditional purchase offer) is activated and made available to the potential. The CPO is stored in a database which contains a record of each CPO and includes fields such as status, subject, tracking number, timestamp, description of goods, price, expiration date, conditions, and buyer ID number. Furthermore, the status field has values of pending, active, expired and completed. An active status means the CPO is available to potential sellers which can be bound. In col. 18, lines 15-20, Walker discloses in an active status the subject of the CPO is posted in an appropriate subject area thus attracting appropriate seller (preferred providers). In col. 20, lines 5-15, Walker discloses multiple appropriate sellers may bind CPO which maintains its status to active until a given number of sellers have responded and only then is the status is changed to completed. Such multiple appropriate sellers which may bind to the CPO and maintaining its status of active until a given number of sellers have responded are considered repeatedly selecting another preferred provider from the group of preferred providers, obtaining a quote from the selected preferred provider, and evaluating the quote from the selected preferred provider to determine if the at least quote satisfies the offer, until the offer is satisfied or until the group of preferred providers is exhausted.

Applicants' remark that "Walker fails to disclose a non-preferred provider group is selected after the preferred provider group is exhausted without a satisfying quote".

Examiner notes that Walker does disclose a non-preferred provider group. In col. 10, lines 40-55, Walker discloses allowing a buyer to reach a large number of remotely located sellers who normally would not be able to afford to find the buyer, in

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order to find the buyer with the exact deal the buyer desires. Such allowing of a buyer to reach a large number of remotely located sellers who normally would not be able to afford to find the buyer are considered non-preferred provider group.

These claims were given the broadest reasonable interpretation in an effort to reduce the possibility that these claims, once issued, will be interpreted more broadly than is justified. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969).

Therefore, Applicant's recitation of claim 1 fully "read on" this disclosure.

Claim 6

Applicants remark that "Walker fails to disclose "evaluating the quotes provided by the selected preferred provider in descending order of value, from the highest quotes to the lowest quote, and selecting the highest quote that satisfies the offer".

Examiner notes that Walker does disclose the "evaluating the quotes provided by the selected preferred provider in descending order of value, from the highest quotes to the lowest quote, and selecting the high quote that satisfies the offer". In col. 20, lines 5-15, Walker discloses multiple appropriate sellers may bind CPO which maintains its status to active until a given number of sellers have responded and only then is the status is changed to completed. Furthermore in col. 20, lines 14-15, an example is to open CPO to any number of bindings, or any number of binds up to the funds available by the buyer. Moreover, Walker discloses another example where a rare coin dealer post a CPO offering of a hundred dollars for a specific type of coin. A condition of CPO may state the offer is open to the first ten sellers to respond (col. 20, lines 9-12). Such

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option of opening a CPO to any number of bindings, or any number of bindings up to the funds available by the buyer and the posting of a CPO offer to the first ten sellers are considered the evaluating of the quotes provided by the preferred provider in descending order of value.

Claim 9

Applicants remark that "Walker fails to disclose each preferred provider includes a respective associated preferred criteria and wherein evaluating the at least one quote from the selected preferred provider to determine if the at least one quote that satisfies the offer comprises determining if the quotes satisfies the preferred criteria associated with the selected preferred provider".

Examiner draws Applicants' attention to the discussion above pertaining to claim 1.

Claim 12

Applicants remark in substance that Walker fails to disclose a group of preferred providers and further fails to disclose ranking the preferred providers according to the preference criteria.

Examiner draws Applicants' attention to the discussion above pertaining to claims 1 and 6.

Claim 15

Applicants remark that Walker fails to disclose "attempting to match the offer with other preferred providers.... in descending order of the ranking associated with each preferred provider".

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Examiner draws Applicants' attention to the discussion above pertaining to claims 1 and 6.

Claim 16

Applicants remark that "Walker fails to disclose attempting to match the offer with one of a plurality of non-preferred providers".

Again, Examiner draws Applicants' attention to the discussion above pertaining to claim 1.

Claim 24

Applicants remark in substance that Walker fails to disclose the two distinct groups of providers, the preference rankings among the group of preferred providers and the distinct preference ranking. Thus, Walker fails to disclose any preferential treatment.

Again, Examiner draws Applicants' attention to the discussion above pertaining to claims 1 and 6.

Applicants remark that "Walker fails to disclose an online travel service exchanger that attempts to repeatedly match an offer from providers in the preferred providers group in descending order according to preference".

Examiner notes that Walker does disclose an online travel service exchanger that attempts to repeatedly match an offer from providers in the preferred providers group in descending order according to preference. In col. 8, lines 50-56, Walker discloses a CPO offer which specifies that the buyer wants a block of four airline tickets from Chicago's O'Hare Airport to Dallas, TX, the tickets must be from any of the six

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largest U.S. carriers, the buyer is willing to change planes no more than once so long as the schedules layover is less than two hours. The CPO is communicated to potential sellers, wherein the CPO are displayed by subject category. The seller could then choose a particular subject and have the ability to browse CPOs which correspond to that subject category. The seller may be required to provide qualifications in order to view the CPOs of a given subject category. (See at least col. 9, lines 5-16). Such CPO offer based on the buyer's specific criteria matching with the appropriate seller are considered online travel service exchanger that attempts to repeatedly match an offer from providers in the preferred providers group in descending order according to preference.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 5,794,207 to Walker et al.

Regarding claim 1, Walker discloses a computer-implemented method of matching an offer for a product with a quote (col. 8, lines 28-33) comprising:

- Receiving the offer from a customer machine (col. 8, lines 44-49);
- Selecting a preferred provider from a group of preferred providers (col. 9, lines 5-16; col. 19, lines 29-44)

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- Obtaining at least one quote for the product from the selected preferred provider (col. 9, lines 17-30);
- Evaluating the one quote to determine from the selected preferred provider to determine if the quote satisfies the offer (col. 9, lines 5-30; col. 19, lines 29-44);
- If at least the one quote from the selected preferred provider does not satisfy offer, repeating: selecting another preferred provider from the group of preferred providers, obtaining at least one quote and evaluating of the at least one quote from the selected preferred provider to determine if the least one quote satisfies the offer (col. 8, lines 15-17; col. 19, lines 13-60; col. 20, lines 5-15; col. 9, lines 5-16; col. 19, lines 29-44; col. 18, lines 19-22; col. 17, lines 49-64);
- If the group of preferred providers is exhausted without satisfying the offer, attempting to satisfy the offer from a group of non-preferred providers (sellers making a counteroffer) (col. 22, lines 40-60); and
- If the offer is satisfied from either group, negotiating the purchase of the product from the provider associated with the satisfying quote (col. 19, line 61-col. 20, line 4; col. 23, lines 6-18).

Regarding claim 2, Walker discloses wherein attempting to satisfy the offer from the group of non-preferred providers comprises: obtaining at least one quote; evaluating the one quote to determine a most competitive quote; if the most competitive non-preferred quote can satisfy the offer, selecting the most competitive quote as the satisfying quote; and the most competitive non-preferred quote includes the lowest quote provided by a non-preferred provider. (See col. 22, line 40 – col. 23, line 18)

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Regarding claims 4-11, Walker discloses the product is a travel service such as airfare (col. 16, line 6; col. 16, lines 12-26); evaluating the quotes from the selected preferred provider in descending order of value, from highest quote to the lowest quote, and selecting the highest quote that satisfies the offer (col. 19, lines 13-60; col. 20, lines 5-15; col. 9, lines 5-16; col. 19, lines 29-44); negotiation the purchase for the product from the provider associated with the satisfying quote which includes making a reservation (col. 19, line 61 – col. 20, line 5; col. 9, lines 5-16; col. 19, lines 29-44); a global distribution system (col. 14, lines 9-25; col. 15, lines 30-43); wherein each preferred provider includes a respective associated preferred criteria, and the quote from the selected preferred provider satisfies the preferred criteria (col. 19, lines 13-60; col. 20, lines 5-15; col. 9, lines 5-16; col. 19, lines 29-44); wherein attempting to satisfy the offer from the group of non-preferred providers comprises evaluating offers from the preferred providers that do not meet the preferred criteria (col. 10, lines 31-56); and a computer readable-medium (col. 12, lines 3-7; col. 12, lines 54-67).

Regarding claims 12, Walker discloses a computer-readable medium having instructions comprising: receiving from a customer an offer representing a value that the customer is willing to exchange (col. 8, lines 42-49; col. 15, lines 46-52); ranking each preferred provider in a plurality of preferred providers according to a preferred criteria (col. 9, lines 5-30; col. 18, lines 27-31; col. 13, lines 35-38); selecting a highest ranked preferred provider (col. 19, lines 13-28; col. 20, lines 5-15); and attempting to match the from the customer with the highest ranked preferred provider (col. 19, lines 55-60; col. 20, lines 5-15).

Regarding claims 13-15 and 19-23, Walker discloses negotiating a purchase of the product (col. 19, line 61-col. 20, line 4; col. 20, lines 50-68); repeatedly attempting to match the offer with other preferred providers until either the offer is matched or until the plurality of preferred providers is exhausted (col. 19, lines 13-60); wherein attempting to match the offer with is performed in descending order of the ranking associated with each preferred provider (col. 19, lines 13-60); the products includes travel service which comprises airfare (col. 16, line 6; col. 16, lines 12-26); a global distribution system (col. 14, lines 9-25; col. 15, lines 30-43); preferred criteria is negotiated with the preferred provider (col. 19, lines 61-col. 20, line 4); and the preferred criteria comprises a round robin decision process based upon industry market share of the preferred providers (col. 19, lines 13-54).

Regarding claims 16-18, Walker discloses wherein if attempting to match the offer with other preferred provider is unsuccessful, attempting to match the offer with one of a plurality of non-preferred providers (sellers that respond to a CPO by issuing a binding counteroffer) (col. 9, lines 44-50; col. 22, lines 40-51); obtaining from one or more non-preferred providers a quote to provide the product, and selecting the lowest quote (col. 23, line 40 – col. 24, line 18); and a global distribution system (col. 14, lines 9-25; col. 15, lines 30-43).

Regarding claim 24, Walker discloses a computer system (col. 11, lines 52-65) for matching offer with quotes, comprising: online travel service exchanger, including a web server component configured to interface with a customer machine and receive from the customer machine an offer for a product (col. 11, lines 52-65; col. 15, lines 31-

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44); a travel server component configured to obtain at least one quote with each provider in a plurality of providers to provide the product at a cost, the plurality comprising two groups, a preferred-provider and a non-preferred providers group (col. 15, lines 31-44; col. 16, lines 12-45); and the online travel service exchanger being further configured to attempt to match offer with each preferred provider in descending order of preference (col. 16, lines 12-45).

Regarding claims 25-29, Walker discloses the online travel service exchanger is further configured to negotiate a purchase of the product from the provider selected as a match for the offer (col. 19, line 61 – col. 20, line 4; col. 20, lines 31-48); a global distribution system (col. 14, lines 9-25; col. 15, lines 30-43); wherein the online travel service exchanger is further configured to evaluate quotes provided by each preferred provider in descending order of preference in ranking by determining whether the quotes provided satisfy a preferred criteria associated with preferred provider (col. 18, line 54 – col. 19, line 54); and the exchanger is further configured to attempt to match the offer with one of the non-preferred providers (sellers making a counteroffer) by evaluating quotes supplied by the non-preferred providers to identify a lowest quote and selecting the lowest quote as the matching quote (col. 22, line 40 – col. 23, line 18).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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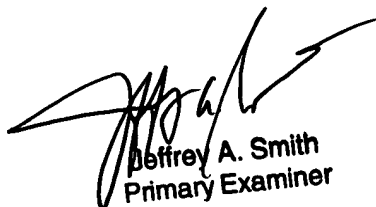
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary, Jeffrey Smith can be reached on 703-308-3588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Mtot
November 17, 2003



Jeffrey A. Smith
Primary Examiner